



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 21, 1996

Mr. Rex L. Cottle
President
Lamar University
P.O. Box 10001
Beaumont, Texas 77710

OR96-0746

Dear Mr. Cottle:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 39770.

Lamar University (the "university") received a request for all records, notes, memos, and communications relating to the exit interviews of six students. You claim that the requested information is excepted from disclosure under section 552.114 of the Government Code.

It appears that some or all of the records requested may be excepted from disclosure under the federal Family Educational Rights and Privacy Act of 1974 ("FERPA"), 20 U.S.C. § 1232g, or section 552.114 of the Government Code. This office has issued Open Records Decision No. 634 (1995), which concluded: (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception. We enclose a copy of Open Records Decision No. 634 (1995) for your information.

We remind you that this ruling applies only to "education records" under FERPA. "Education records" are records that

- (i) contain information directly related to a student; and
- (ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.

20 U.S.C. § 1232g(a)(4)(A); *see also* Open Records Decision Nos. 462 (1987), 447 (1986). Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." Open Records Decision Nos. 332 (1982), 206 (1978).¹ Therefore, the university was not required to seek a ruling from us as to whether the requested documents are excepted under FERPA. However, as you have chosen to seek a ruling from our office, we will address your arguments.

We note that pursuant to our ruling in Open Records Decision No. 634 (1995), you must have de-identified the documents or obtained parental consents or the students' consents, if applicable, for release of the documents to this office for review. We assume here that you have obtained either the parents' consent or, if applicable, the students' consent for release of these documents to our office.

Section 552.114(a) provides:

Information is excepted from the requirements of Section 552.021 if it is information in a student record at an educational institution funded wholly or in part by state revenue.

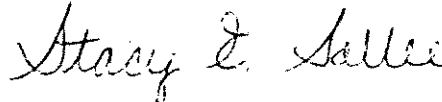
This office generally applies the same analysis under section 552.114 as it applies under FERPA. We conclude that the submitted documents constitute "education records" under FERPA. Release of a student's handwritten comments, even if unsigned, is prohibited under FERPA because it would make the student's identity easily traceable. Open Records Decision No. 224 (1979). As some of the submitted documents were handwritten by students, the university must withhold these documents. As to the other submitted document, we have marked the information that must be withheld under sections 552.026 and 552.114. The remainder of the information may not be withheld.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue

¹*But see* 20 U.S.C. § 1232g(a)(1)(A), (d) (parent or adult student has affirmative right of access to that student's education records). *See also* Open Records Decision No. 431 (1985) (Open Records Act's exceptions to required public disclosure do not authorize withholding of "education records" from adult student). The requestor informs us that one of the students has requested her own records. If that is the case, the university must release her education records to her, as she has a special right of access to that information. Similarly, if the student gives consent for release of her own education records, the university may not withhold those records under FERPA or section 552.114 of the Government Code.

under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Stacy E. Sallee
Assistant Attorney General
Open Records Division

SES/ch

Ref.: ID# 39770

Enclosures: Open Records Decision No. 634 (1995)
Marked documents

cc: Mr. Michael Wright
Sports Staff
Beaumont Enterprise
P.O. Box 3071
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(w/enclosure - Open Records Decision No. 634 (1995))